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TOM LYTHGOE, CHAIR

CHUCK NOTBOHM

KEN WEBER

**PROCEEDING OF THE BOARD OF COMMISSIONERS
COUNTY OF JEFFERSON, STATE OF MONTANA
October 10, 2006**

Present: Commissioners Lythgoe, Notbohm and Weber; Matt Johnson, County Attorney; Garry Pace, Superintendent of Schools; Jan Anderson, *Boulder Monitor/Jefferson County Courier*; Marga Lincoln, *Helena Independent Record*; Joe Schmaus, Marilyn McCauley, Michele LeTexier, Wally Hustad

REPORTS

Receipt of September cash report from Treasurer.

Receipt of September expense and revenue reports from Clerk and Recorder.

CALENDAR REVIEW

10/11 - 10/12 RC&D Conference - Great Falls
10/12 Tri-Co Fire - Helena - 9:00
Elkhorn Working Group - Montana City - 3:00
Library Board - Clancy - 6:30
10/16 Candidate's Night - Elk Park - 7:30
10/17 Candidate Forum - Boulder - 6:30

COMMISSION REPORTS

FOREST SERVICE ROAD ISSUES

Commissioner Lythgoe reported that the Commission met with Bill McBride and Dennis Lopatch from Gough, Shannahan and Waterman regarding contracting with the County regarding Forest Service roads and mining issues. The Commission is waiting to hear back from them regarding any conflict of interest they may have with current clients.

DEMOCRAT DINNER

Commissioner Lythgoe reported that he attended the Democrat dinner on Friday. He stated that there were approximately 80 people in attendance.

GOLDEN SUNLIGHT TRIP TO ALASKA

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Commissioner Weber reported that went to Alaska with Barrack. The local population is facing a lot of the same issues regarding mining. People from Missoula are going up there and telling the natives that the Whitehall area is poisoned, you can't fish, the water is bad. It was good for them to hear from someone local to Whitehall, to allay their fears. The tribal elders who came to Whitehall earlier this year expected to walk into a desert. They did discuss some of the legitimate problems that have occurred in Whitehall and how the mine reacted.

AREA IV ON AGING

Commissioner Notbohm reported that he attended the Area IV on Aging meeting on Thursday. They are all getting hit with rising costs. While there, he spoke to a Commissioner from Meagher County, which is a smaller, poorer county. They are having problems meeting their budget.

CORRESPONDENCE

Matt Johnson, County Attorney, stated that he has received a letter and petition requesting that the county request the Attorney General's opinion regarding the county's ability to take over roads on Forest Service lands. Matt stated that they had discussion on RS 2477, and done much research, but it may be best that the Commission seek other council, as he is busy. Matt stated that he has written a response to the letter. Commissioner Lythgoe noted that all of the Commissioners have had a chance to read the petition and Matt's response, and feel that it is appropriate. He doesn't feel that the Commission needs to do anything else at this time. Commissioner Notbohm asked if the petition was taken to the Clerk and Records office. Matt stated that it was not; it was more a citizen action to affect Commission action. Commissioner Lythgoe stated that the Commission has received letters from a couple of the signers of the petition. Commissioner Notbohm stated that one major responsibility of any Commission is to protect and maintain the integrity of the County road system. As far as he is concerned, the Commission is just doing their job. Commissioner Lythgoe stated that they've had a lot of meetings in the last year or so on this issue, and the Commission has received a lot of support for their position. They need to define what to do and how to do it, and are in need of experts to advise them how to do it. The Commission is in the process of finding these experts.

ITEMS FOR COMMISSIONERS ACTION OR REVIEW

MEET WITH SOLID WASTE BOARD TO DISCUSS PLANS FOR THE INTERIM

Commissioner Lythgoe stated that this has been cancelled until the following week, when the board members will be able to attend.

DISCUSS AND DECIDE ON FORMING JOINT CITY-COUNTY PLANNING BOARD WITH THE CITY OF HELENA

Commissioner Lythgoe stated that the last article in the *Independent Record* is incorrect on several issues. The point that Mr. Burton made stating that we had not responded to a request to form a joint planning board is not true. The Commission sent a written response requesting that they wait until the Attorney General's opinion returned. Since the Attorney General's opinion was received, Matt has had numerous contacts with the City of Helena.

Matt stated that he has had probably three or four phone conversations with Dave Nielsen since the letter was sent requesting that we hold off on the planning board until the Attorney General's opinion was received. Matt stated that the Commission may want to speak to their counterparts in Helena. It appears that Mr. Burton is growing impatient and feels that we are putting him off. This is a major issue that could effect a permanent change to the zoning and the growth policy. This needs public input. Commissioner Weber asked if the city council and mayor want to be involved. Matt said that the city manager and planning staff are much more involved.

Commissioner Notbohm stated that the way it came down, in light of what it said in the paper and in the Attorney General's opinion, that it would be getting the cart before the horse to form the commission now. Commissioner Weber stated that they should extend the offer to Dave Nielsen and Tim Burton to come down and discuss this. Matt replied that they can come here or we can go there. However, it is not wise to commit to anything without knowing what the plan is. Commissioner Weber said that he is interested in having them come down, now that we are at the point to talk specifics.

Wally Hustad stated that he has made it very clear in the past that they need to cooperate with the City of Helena and need to be proactive. If we don't do this, the annexation will come at us like a train. He said that the Commissioners haven't been doing their job, and a lot of homeowners have been asking what is the detriment to Jefferson County; what is wrong with clean water and sewer treatment. The Commission has had a lot of time to figure this out, and a lot of people in the community are asking why the scrambling, and why the fear-mongering. He would strongly encourage the Commission to participate on the joint planning board.

Commissioner Notbohm asked Wally if he hopes that the water and sewer will extend to his proposed subdivision. Wally stated that it will take too long. His hope is to have central water and sewer; when the municipal system does get to Clancy, he will be able to retrofit in. He feels that all developers should do the same. He feels that the City of Helena will come if we participate or not. We need to be involved so we can have a say.

Commissioner Notbohm stated that we need to know all the plans; Tim Burton is talking out of both sides of his mouth. He wants to know what we are in for. Wally stated that he understands this, but Jefferson County needs to cooperate and get on board so that the citizens can have a say.

Commissioner Weber moved to invite Tim Burton, the Mayor of Helena, Dave Neilson and the City Commission to discuss these issues, and to table this decision until after that meeting. Commissioner Notbohm seconded. The motion carried.

DISCUSS RELEASING METAL MINES FUNDS

Commissioner Lythgoe stated that the Commission has received a request from Jefferson High and the JLDC to release the funds. A request has also been received from Basin Elementary to get a portion of the funds if they are released. Under the original resolution, the only schools to receive money are Clancy Elementary and Jefferson High School. To add Basin to the mix is a Commission decision. Commissioner Lythgoe read the letter from the Basin School (on file in

the Clerk and Recorder's office).

Commissioner Notbohm asked if they decide to release the funds, if they could put all of the requests off until another meeting to decide where the money will go. Commissioner Lythgoe stated that this will be a two-meeting process. Commissioner Weber stated that there is another metal mine account that was never released from a mine in the Basin area. They should look into this at the same time. Commissioner Lythgoe stated that it would be a separate resolution, but it is entirely appropriate to make that decision at the same time. Commissioner Weber stated that the date of the 50% trigger needs to be looked at. They need to look at the money available at that point to consider the figure. He also noted that if the high school and Basin Elementary were affected, then Boulder Elementary may have been too. Commissioner Lythgoe stated that the superintendent at Clancy and the high school is also the superintendent at Boulder Elementary, and he hasn't come forward for that school. He stated that he will contact Mr. Klein. Commissioner Notbohm noted that more schools are involved than these, pointing out Montana City, and stated that it may be best to let sleeping dogs lie. Commissioner Lythgoe stated that the dogs are awake, noting the presence of the press. This decision may have to be pushed out; they may not be able to make a decision at the next meeting. He is guessing that there are a lot of miners who lived in the Montana City area. He feels we need to be proactive now and contact the schools. If Basin was impacted, he feels that others may have been too. Commissioner Notbohm stated that he feels that they need to go totally by impact.

Commissioner Lythgoe stated that the Commission has thought all along that the County was to get approximately \$900,000, but the actual figure is \$1,775,642. He said that they need to go to Bonnie for some leadership on how to divide this equitably.

Marilyn McCauley asked if the Commission still has the request from the fair and carousel boards. Commissioner Lythgoe stated that this will be dealt with in the next two meetings. Marilyn asked if the Commission needs to have specific information on what the money will be used for at the fairgrounds and carousel. Commissioner Lythgoe stated that the Commission will set up a similar situation as on the south end, with grant and revolving loan programs. It would be his recommendation to pursue grants. Commissioner Weber stated that in the Whitehall area, it is called the metal mines grant committee, and it is made up of local people who are interested in economic development. He explained the existing grant process.

Wally noted that there are school fees charged to developers, and asked if there are any developers who don't pay. Commissioner Lythgoe stated that there are. Wally stated that he would like names; it is wrong for developers to take advantage of the infrastructure, they need to start giving back. Commissioner Lythgoe stated that this is not a mandatory fee, although he agrees it should be done. Wally stated that the laws need to be changed regarding impact fees. Commissioner Lythgoe stated that he doesn't disagree that major developers need to be doing their share, and also look at central water and sewer.

AMEND RESOLUTION 30-2006 FIXING TAX LEVIES

Commissioner Lythgoe stated that this resolution has been previously adopted. However, there were several changes to some of the school levies and the Willow Creek Fire District was added. The resolution was presented as follows:

RESOLUTION 30-2006 *AMENDED*

**ADOPT FINAL BUDGET
AND
FIX TAX LEVIES FOR JEFFERSON COUNTY
FISCAL YEAR 2006-2007**

WHEREAS, the Board of County Commissioners of Jefferson County, Montana, has compiled and reviewed the proposed budgets for fiscal year 2006-2007 as required by law; and,

WHEREAS, the value of a mill has been determined as \$20,940 county-wide and a value of \$19,233 outside the city limits, with other values as stated and certified by the Department of Revenue of the State of Montana,

NOW, THEREFORE, BE IT RESOLVED that the final budgets for fiscal year 2006-2007, which budget document is on file in the Clerk and Recorder's office, is approved and adopted and is, by this reference, incorporated herein; and

BE IT FURTHER RESOLVED that the Board does hereby fix the following levies to fund said budgets:

GENERAL	22.02
ROAD	16.28
BRIDGE	5.00
WEED	5.10
FAIR	1.29
DISTRICT COURT	4.28
LIBRARY	12.30
PLANNING BOARD	1.60
HEALTH AND SANITATION	6.23
SENIOR CITIZENS	2.24
PUBLIC SAFETY	43.32
MUSEUM	0.60
EMPLOYEE GROUP HEALTH	3.39
ENTITLEMENT LEVY	3.44
SEARCH AND RESCUE	0.00

SPECIAL DISTRICT LEVIES

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MOSQUITO #1 - BOULDER	2.34
MOSQUITO #2 - BOULDER VALLEY	9.68
MOSQUITO #3 - WHITEHALL	7.82
JEFFERSON VALLEY RURAL FIRE	14.85
MONTANA CITY FIRE	29.72
JEFFERSON CITY FIRE	21.41
BASIN FIRE	29.61
BULL MOUNTAIN FIRE	27.42
ELK PARK RURAL FIRE	38.78
WILLOW CREEK FIRE	42.09
JEFFERSON VALLEY SOIL & WATER	1.95
BASIN WATER & SEWER	389.56
BASIN IMPROVEMENTS	13.24

CITY LEVIES

TOWN OF BOULDER	167.63
TOWN OF WHITEHALL	95.16

SCHOOL LEVIES

CLANCY #1	130.12
#1-A	113.44
WHITEHALL #4	96.36
BASIN #5	47.31
BOULDER #7	198.92
CARDWELL #16	33.78
WILLOW CREEK #1	94.32
THREE FORKS #26	86.53
MONTANA CITY #27	186.18
MONTANA CITY #27-B	202.86
JEFFERSON HIGH SCHOOL #1	52.79
WHITEHALL HIGH SCHOOL #2	52.25

COUNTY LEVIES

COUNTY GENERAL HIGH SCHOOL	22.00
COUNTY GENERAL ELEMENTARY	33.00
TRANSPORTATION	4.67
ELEMENTARY RETIREMENT	25.10
HIGH SCHOOL RETIREMENT	13.22

SPECIAL ASSESSMENT DISTRICTS

SHEEP PREDATORY ANIMAL (per animal)	\$.60
CLANCY FIRE SERVICE AREA	\$ 55.00
BASIN TV	\$ 20.00
BOULDER TV	\$ 8.00
BOULDER TV-COMMERCIAL	\$ 15.00
WHITEHALL TV	\$ 15.00
SOLID WASTE	\$129.69
LIME KILN RD IMPROVEMENT DIST	\$350.00

BE IT FURTHER RESOLVED that an additional, annual assessment, as provided for in §7-22-2432, MCA, and as approved by the voters of the district on June 2, 1992, is hereby imposed upon the owners of structures and properties within the Boulder Mosquito District #1, as follows:

- (a) \$20.00 per single-unit dwelling;
- (b) \$20.00 per unit in a duplex dwelling;
- (c) \$ 5.00 per unit in a multi-unit dwelling (other than a duplex);
- (d) \$75.00 per commercial establishment;
- (e) \$50.00 on each irrigated parcel of property that does not contain a dwelling;
- (f) \$15.00 on each non-irrigated parcel of property that does not contain a dwelling.

WHEREAS, §7-6-4031, MCA makes provision for the authorization of a designated official to transfer appropriations between items within the same fund; and

WHEREAS, §7-6-4006 (3), MCA makes provision for appropriation adjustments,

NOW, THEREFORE, BE IT RESOLVED that the Clerk and Recorder be designated to make budget transfers and adjustments with the approval of the governing body, and shall submit at minimum quarterly recommended budget transfers and adjustments.

DATED this 12th day of September, effective for Fiscal Year 2006-2007.

ATTEST:

**BONNIE RAMEY
CLERK AND RECORDER**

TOMAS E. LYTHGOE, CHAIR

CHUCK NOTBOHM, COMMISSIONER

KEN WEBER, COMMISSIONER

Commissioner Weber moved to adopt the resolution. Commissioner Lythgoe seconded. The motion carried.

DISCUSS FORMING RMD IN SHEEP MOUNTAIN 1, 2, 3 & 4 SUBDIVISIONS

Commissioner Lythgoe stated that the Commission has received a request from Joe Schmaus requesting their help in forming a road Maintenance District (RMD) for the Sheep Mountain subdivisions. Commissioner Notbohm asked Joe if he is making any headway with the BLM. Joe stated that he made the original application to the BLM and is well over a year into the application process with them. They have denied the first request due to a technicality. He has discussed this with state staff and they asked if the County is interested in taking this as a county road. The Sheep Mountain Homeowners Association is willing to foot the bill to have the County join and do a joint application for a right-of-way. They want the homeowners association fees to be levied on their taxes for road maintenance, this is one way to assure the roads are maintained properly.

Commissioner Weber noted that they have started the process with the BLM, but asked if it is their desire to have an agreement public entity to public entity rather than public entity to private. Joe stated that because they want to form the RMD, they need county involvement. Commissioner Weber asked if Joe is asking the County to partner on the application. Joe stated that he is asking permission to add Jefferson County to the application for the right-of-way, then to form the RMD on the granting of the right-of-way. Commissioner Weber stated that they have preliminary plat approval on 1, 2, 3 and 4 already, and the conditions of approval include these roads as ingress-egress roads. Joe stated one of the conditions of approval is to bring the roads to county standards. There are three miles of road to widen, and he feels that the RMD is the key to ensure future maintenance.

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Commissioner Weber asked if Mr. Frazier will be the sole owner until the lots sell. Joe stated that this is correct. Commissioner Lythgoe stated that Mr. Frazier, as sole owner, will be using his own checkbook to pay for the upgrade to the roads. Joe stated that they understand this. Commissioner Lythgoe asked if they plan to have the RMD funded by the homeowners after the roads are brought up to standards. Joe stated that this is the plan.

Commissioner Lythgoe stated that it is a good idea to form the RMD up front. He has no problem with a joint application to the BLM. He doesn't have a problem with establishing the RMD ahead of time, it makes sense. In most cases, the County's responsibility ends with collecting the money for the RMD, which it then gives back to the homeowner's association to do the maintenance. However, it appears here that they want the county to take over the responsibility to maintain the roads. He is not willing to do this. Joe stated that all they want the County to do is the joint application for the right-of-way. Commissioner Notbohm stated that he is not sure what to do legally. The BLM doesn't want to take responsibility for the road, but maybe the County could take it as a non-maintained county road. They need to be up-front with BLM. They also need to determine up front the cost per lot for the RMD. It may take a while to build up funds to be able to do maintenance if only a couple lots are sold. Commissioner Lythgoe noted that the owners have to pay, so if Mr. Frazier owns all 20 lots, he will have to pay all of the fees. Joe stated that it is his understanding that to form the RMD, they have to be county roads. Commissioner Notbohm stated that this is not true.

Wally stated that he understands the need to have the County involved with the application, but he asked why they feel that a RMD is needed; what is wrong with a homeowner's association. Commissioner Lythgoe stated that they don't work.

Commissioner Lythgoe stated that he will speak with Matt and Harold. Joe stated that they also have three attorneys that are willing to work with the county. Commissioner Lythgoe stated that at first blush, it seems a reasonable request. This will be put back on the agenda in two weeks for a decision.

MEETING ADJOURNED

ATTEST:

BONNIE RAMEY
CLERK AND RECORDER

TOMAS E. LYTHGOE, CHAIR

CHUCK NOTBOHM, COMMISSIONER

KEN WEBER, COMMISSIONER